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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,124	11/30/2000	Victor L. Vines	108747.00003	2389

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THRASHER ASSOCIATES, LLP
391 SANDHILL DR.
RICHARDSON, TX 75080

EXAMINER

NGUYEN, VI X

ART UNIT PAPER NUMBER

3731

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,124

Applicant(s)

VINES, VICTOR L.

Examiner

Victor X Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed on 10/16, 2002 under 37 CFR 1.131 has been considered and an action on the merits follows.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 are rejected under 35 U.S.C. 102 (e) as being anticipated by Dimitriu et al (U.S.6,361,542).

Regarding claim 1, Dimitriu discloses a device for enabling the recording of a pressure produced by a vacuum device (Figs1-3), having: a cable (44) is attached to a monitor (42). The monitor (42) is enabled to record a detected pressure; and a pressure detection device (40) coupled to the cable (44). The pressure detection device (40) is coupled to a tubing (12) such that the pressure detection device (40) is enabled to detect a pressure in the tubing (12); and wherein the tubing (12) coupled to a suction device (10), the suction device attaches to a fetus (40)

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Regarding claims 2,3, Dimitriu discloses the device wherein the tubing (Figs 1,2,3) has a first end and a second end; furthermore, the first end and the second end are enabled to couple to the tubing (12).

Regarding claim 4, Dimitriu discloses the device wherein the first end is enabled to attach to a vacuum pump (10).

Regarding claim 5, Dimitriu discloses the device wherein the first end is enabled to attach to a suction device (10).

Claims 6, 7 and 10-12 are rejected under 35 U.S.C. 102 (e) as being anticipated by Dimitriu (U.S.6,361,542).

Regarding claim 6, Dimitriu discloses a method of using a recording device to record a pressure in a vacuum device (Figs1-3), having: the vacuum device (10) on a fetus (40); wherein coupling the recording device to the vacuum device (10) and recording the pressure to produce a record (col. 2, lines 40-67).

Regarding claim 7, Dimitriu discloses the method comprising the act of calibrating the recording device by zeroing the pressure .

Regarding claims 10, 11, 12, Dimitriu discloses the method wherein the recording is achieved electronically and with a paper printout; furthermore, comprising the act of storing the record (col 2, lines40-67).

Claims 13-20 are rejected under 35 U.S.C. 102 (b) as being anticipated by Hariri et al (U.S.4,875,482).

Regarding claim13, Hariri et al discloses a pump-attachable device for monitoring and recording a pressure in a vacuum device (Figs 4,5), having: an adapter (55 is considered an

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adapter) attached to a pressure gauge (fig 4) receiver of a hand pump (76); an air pressure detector (col. 8 lines 5-13) secured in the adapter (55) such that the pressure detector is exposed to an air cavity in the hand pump (76); and a cable (78) coupled to the air pressure detector, the cable (78) enabled to attach to a monitor (not label) for recording a detected pressure.

Regarding claim 14, Hariri et al discloses the pump-attachable device wherein the air pressure detector (col. 8 lines 5-13) is a transducer.

Regarding claims 15, 16, 19, Hariri et al discloses the pump-attachable device; wherein the monitor (not label) is coupled to the cable (78) and the monitor is enabled to display a detected pressure; furthermore, the monitor is enabled to generate a paper record.

Regarding claims 17, 18, Hariri et al discloses the pump-attachable device ; wherein the air pressure detector (col. 8 lines 5-13) generates a mechanical signal based on the pressure and generates an electrical signal based on the pressure.

Regarding claim 20, Hariri et al discloses the pump-attachable device having a pressure release valve (55) coupled to the hand pump (76).

Allowable Subject Matter

2. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record disclose or suggest a grip surface of the handle and the activation surface of the vacuum pump are in a proximity such that a single human hand can grasp both the grip and the activation surface simultaneously; and wherein compression of

the activation surface of the vacuum pump towards the grip surface of the handle reduces the volume within the vacuum chamber.

Response to Arguments

3. Applicant's arguments filed 10/ 16/ 2002 have been fully considered but they are not persuasive. **Claims 1-8 and 10-20 are pending.**
4. Applicant's arguments with respect to claims 1-8 and 10-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,395,379 to Deutchman et al U.S. Pat. No. 5,649,934 to Smeltzer, III

U.S. Pat. No. 6,361,542 to Dimitriu et al U.S. Pat. No. 6,074,399 to Wallace et al

U.S. Pat. No. 3,062,215 to O.S. Heyns

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898.

The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Victor X Nguyen
Examiner
Art Unit 3731

vn
January 12, 2003

KEVIN T. TRUONG
PRIMARY EXAMINER

1/12/03